

Suffolk Superior Civil # 04-2269
COMMONWEALTH OF MASSACHUSETTS ✓

SUFFOLK, SS.

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT

BARRY LINTON,

Plaintiff,

v.

NEW YORK LIFE INSURANCE
AND ANNUITY CORPORATION,

Defendant.

U. S. DIST # 04-11362 RWZ

CIVIL ACTION NO. 04-2269 BLS

NOTICE OF FILING NOTICE OF REMOVAL

TO: THE HONORABLE JUDGES OF THE SUPERIOR COURT OF THE TRIAL
COURT DIVISION OF THE COMMONWEALTH OF MASSACHUSETTS

NOTICE IS HEREBY GIVEN that on the 15th day of June, 2004, Defendant New York
Life Insurance and Annuity Corporation filed a Notice of Removal of this action in the
United States District Court for the District of Massachusetts. A true copy of the Notice

RECEIVED
JUL 15 2004
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
JUL 15 2004
U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS

of Removal so filed is attached hereto as Exhibit 1. The State Court shall proceed no further.

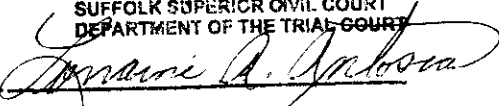
HEREBY ATTEST AND CERTIFY ON

JUNE 22, 2004 THAT THE

FOREGOING DOCUMENT IS A FULL,
TRUE AND CORRECT COPY OF THE
ORIGINAL ON FILE IN MY OFFICE,
AND IN MY LEGAL CUSTODY.

MICHAEL JOSEPH DONOVAN
CLERK / MAGISTRATE
SUFFOLK SUPERIOR CIVIL COURT
DEPARTMENT OF THE TRIAL COURT

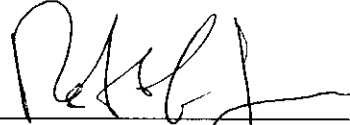
BY



ASSISTANT CLERK.

NEW YORK LIFE INSURANCE AND
ANNUITY CORPORATION

By its attorney,



John D. Donovan, Jr. (BBO #130950)

Robert G. Jones (BBO #630767)

ROPES & GRAY LLP

One International Place

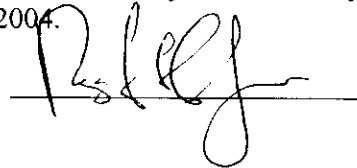
Boston, MA 02110

(617) 951-7000

Dated: June 15, 2004

CERTIFICATE OF SERVICE

I certify a true copy of this document was served upon the attorney of
record for the plaintiff by hand on June 15, 2004.



UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

BARRY LINTON,

Plaintiff,

v.

NEW YORK LIFE INSURANCE
AND ANNUITY CORPORATION,

Defendant.

Civil Action No. _____

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446, defendants New York Life Insurance and Annuity Corporation ("NYLIAC") hereby remove the above-captioned action to the United States District Court for the District of Massachusetts. As grounds for the removal of this action, NYLIAC states:

1. On May 24, 2004 Barry Linton ("Linton") commenced this action against NYLIAC by filing a complaint in the Massachusetts Superior Court entitled Barry Linton v. New York Life Insurance and Annuity Corporation, Suffolk Superior Court, Civil Action No. 04-2269 BLS ("the complaint"), a copy of which is attached.

2. The complaint was served upon the Defendant on or about May 27, 2004.

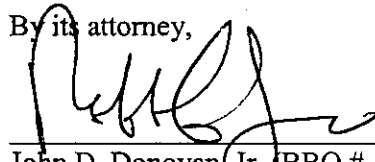
3. Linton alleges in the complaint that he resides at 9 New Meadow Lane, Topsfield, Massachusetts. NYLIAC is a Delaware corporation with its principal place of business in New York. Thus, the controversy is between citizens of different states within the meaning of 28 U.S.C. § 1332.

4. In its complaint, Linton asserts a right to recover compensatory damages and restitution of funds. While Linton failed to file a Statement of Damages, his complaint alleges that he has suffered substantial injury. The amount in controversy between the parties exceeds the sum or value of \$75,000, exclusive of interest and costs.

WHEREFORE, the Defendants say that this court has original jurisdiction of the action pursuant to 28 U.S.C. § 1332, and that the action is properly removable pursuant to 28 U.S.C. § 1441.

NEW YORK LIFE INSURANCE AND ANNUITY
CORPORATION

By its attorney,

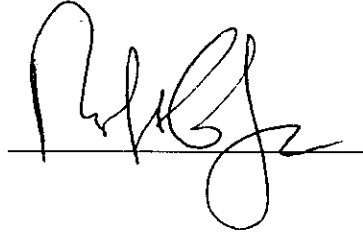


John D. Donovan, Jr. (BBO # 130950)
Robert G. Jones (BBO #630767)
ROPES & GRAY, LLP
One International Place
Boston, Massachusetts 02110
Tel. (617) 951-7000

Dated: June 15, 2004

CERTIFICATE OF SERVICE

I certify that, on June 15, 2004, I caused a copy of this Notice of Removal to be served on counsel for plaintiffs by hand.

A handwritten signature in black ink, appearing to be "R. H. B.", is written over a horizontal line.

Commonwealth of Massachusetts
SUFFOLK SUPERIOR COURT

Case Summary
Civil Docket

06/22/2004
11:52 AM

SUCV2004-02269
Linton v New YorkLife Ins & Annuity Corp

File Date	05/24/2004	Status	Disposed: transfered to other court (dtrans)
Status Date	06/22/2004	Session	BLS - CtRm 6
Origin	1	Case Type	BE1 - Fraud, business torts, etc
Lead Case		Track	B

Service	Answer	Rule12/19/20
Rule 15	Discovery	Rule 56
Final PTC	Disposition	Jury Trial No

Plaintiff
Barry Linton
Active 05/24/2004

Defendant
New YorkLife Ins & Annuity Corp
Served: 06/05/2004
Served (answr pending) 06/14/2004

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Active 06/22/2004 Notify

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Active 06/22/2004 Notify

Date	Paper	Text
05/24/2004	1.0	Complaint (Business)
05/24/2004		Origin 1, Type BE1, Track B.
05/24/2004	2.0	Civil action cover sheet filed
05/27/2004	3.0	Notice of Acceptance into Business Litigation Session (vanGestel,J) (Dated 5/26/04) notice sent 5/26/04
06/14/2004	4.0	SERVICE RETURNED: New YorkLife Ins & Annuity Corp (Defendant) by delivering in hand to Patrice Fischer, pereson in charge on 6/05/04
06/15/2004		Certified copy of petition for removal to U. S. Dist. Court of Defts. New York Life Insurance And Annuity Corporation U. S.

Commonwealth of Massachusetts
SUFFOLK SUPERIOR COURT
Case Summary
Civil Docket

06/22/2004
11:52 AM

SUCV2004-02269
Linton v New YorkLife Ins & Annuity Corp

Date	Paper	Text
06/22/2004		Dist.#(04-11362RWZ). Case REMOVED this date to US District Court of Massachusetts

. HEREBY ATTEST AND CERTIFY ON

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